

ESTTA Tracking number: **ESTTA494676**

Filing date: **09/14/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

|                                       |   |
|---------------------------------------|---|
| Name                                  | The Baseball Club of Seattle, L.P.  |
| Granted to Date of previous extension | 09/16/2012  |
| Address                               | Safeco Field 1250 First Avenue South<br>Seattle, WA 98134<br>UNITED STATES  |
| Attorney information                  | Mary L. Kevlin<br>Cowan, Liebowitz & Latman, P.C.<br>1133 Avenue of the Americas<br>New York, NY 10036<br>UNITED STATES<br>sis@cll.com, trademark@cll.com, jmn@cll.com Phone:212-790-9200 |

### Applicant Information

|                        |   |                        |            |
|------------------------|---|------------------------|------------|
| Application No         | 85451293  | Publication date       | 03/20/2012 |
| Opposition Filing Date | 09/14/2012  | Opposition Period Ends | 09/16/2012 |
| Applicant              | Fadal, Shannon Elizabeth<br>PMB 690 7336 Santa Monica Boulevard<br>Hollywood, CA 90046<br>UNITED STATES |                        |            |

### Goods/Services Affected by Opposition

|   |
|---|
| Class 003.<br>All goods and services in the class are opposed, namely: Colognes, perfumes and cosmetics |
|---|

### Grounds for Opposition

|       |                     |
|-------|---------------------|
| Other | See attached filing |
|-------|---------------------|

|             |  |
|-------------|--|
| Attachments | S Ltr to Commr.pdf ( 1 page )(72679 bytes )<br>S NOO.pdf ( 5 pages )(65790 bytes ) |
|-------------|--|

## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

|           |                |
|-----------|----------------|
| Signature | /Seth Shaifer/ |
| Name      | Seth Shaifer   |
| Date      | 09/14/2012     |



Cowan, Liebowitz & Latman, P.C.  
1133 Avenue of the Americas  
New York, NY 10036

(212) 790-9200 Tel  
(212) 575-0671 Fax  
www.cll.com

September 14, 2012

**By Electronic Filing**

Commissioner for Trademarks  
Attn: TTAB  
P.O. Box 1451  
Alexandria, VA 22313-1451

Re: The Baseball Club of Seattle, L.P.  
Notice of Opposition Against  
Shannon Elizabeth Fadal  
Application to register S  
Ref. No. 21307.035

Dear Commissioner:

We enclose a Notice of Opposition against Application Serial Number 85/451,293 published in the Official Gazette on March 20, 2012. Contemporaneously with the electronic filing of this Notice of Opposition, we are arranging for an electronic payment in the amount of \$300 to cover the filing fee.

If the amount received is insufficient and additional fees are required, please charge our Deposit Account No. 03-3415.

Please address all future correspondence to the attention of Mary L. Kevlin of Cowan, Liebowitz & Latman, P.C.

Respectfully submitted,

/Seth Shaifer/  
Seth Shaifer

Enclosures

cc: Ms. Diane Kovach (w/encs.)  
Mary L Kevlin, Esq. (w/encs.)  
Richard S. Mandel, Esq. (w/encs.)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Application Serial No. 85/451,293  
Filed: October 19, 2011  
For Mark: S  
Published in the Official Gazette: March 20, 2012

|                                     |   |
|-------------------------------------|---|
| -----X                              |   |
| THE BASEBALL CLUB OF SEATTLE, L.P., | : |
| Opposer,                            | : |
|                                     | : |
| v.                                  | : |
|                                     | : |
| SHANNON ELIZABETH FADAL,            | : |
| Applicant.                          | : |
|                                     | : |
| -----X                              |   |

Opposition No.

**NOTICE OF OPPOSITION**


Commissioner for Trademarks  
Attn: Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

Opposer, The Baseball Club of Seattle, L.P. (“Opposer”), a Washington limited partnership, with offices at Safeco Field, 1250 First Avenue South, Seattle, Washington 98134, believes that it will be damaged by registration of the standard character mark S ("Applicant's Mark") in International Class 3 for “colognes, perfumes and cosmetics” as shown in Application Serial No. 85/451,293 (the “Application”), and having been granted extensions of time to oppose up to and including September 16, 2012, hereby opposes the same.

As grounds for opposition, it is alleged that:

1. Opposer is the owner of the renowned SEATTLE MARINERS MAJOR LEAGUE BASEBALL club.
2. Since long prior to October 19, 2011, Applicant’s constructive first use date, Opposer, its predecessors, and their affiliated and related entities, licensees and/or sponsors have

used S marks, alone or with other words, including, without limitation, as part of the word SEATTLE, letter and/or design elements, including, without limitation, in the following

distinctive stylizations  , and  (the “Opposer’s S Marks”), in connection with baseball games and exhibition services and a wide variety of goods and services, including, but not limited to, nail polish; hand sanitizer; cosmetic cases; toiletry cases; jewelry; sunglasses; apparel; paper goods and printed matter; toys and sporting goods; and novelty items.

3. Opposer owns United States federal registrations for Opposer’s S Marks in International Classes 6, 9, 14, 16, 18, 21, 25, 28 and 41; namely, Registration Nos. 1,163,136; 1,579,124; 1,683,295; 1,876,695; 2,007,273; 2,012,889; 2,573,322; 2,809,131; 3,486,280 and 4,001,316. Opposer’s Registration Nos. 1,163,136; 1,579,124; 1,683,295; 1,876,695; 2,012,889 and 2,573,322 are incontestable. Registration Nos. 2,007,273 and 2,809,131 are partially incontestable.

4. Since long prior to October 19, 2011, Applicant’s constructive first use date, Opposer, its predecessors, and their affiliated and related entities, licensees and/or sponsors have promoted and advertised the sale and distribution of goods and services bearing or offered in connection with Opposer’s S Marks, including, but not limited to, baseball games and exhibition services and a wide variety of goods and services, including, but not limited to, nail polish; hand sanitizer; cosmetic cases; toiletry cases; jewelry; sunglasses; apparel; paper goods and printed matter; toys and sporting goods; and novelty items and have offered such goods and rendered such services in commerce.

5. As a result of the sales and promotion of its goods and services bearing or offered in connection with Opposer’s S Marks, Opposer has built up highly valuable goodwill in

Opposer's S Marks, and said goodwill has become closely and uniquely identified and associated with Opposer.

6. On October 19, 2011, Applicant filed the Application for the standard character mark S for "colognes, perfumes and cosmetics" in International Class 3, based on an intent to use.

7. Upon information and belief, Applicant did not use Applicant's Mark for the goods covered in the Application in United States commerce prior to its constructive first use date of October 19, 2011.

8. The goods covered by the Application are closely related to the goods offered and services rendered in connection with Opposer's S Marks.

9. As Applicant's Mark is a standard character mark, registration of such mark effectively could give Applicant rights to the mark in any stylization, including the stylizations of Opposer's S Marks that have been duly registered or have priority of use over Applicant's Mark. Additionally, registration of such mark effectively could prevent Opposer from developing additional "S" marks in the future.

10. Applicant's Mark so resembles Opposer's S Marks as to be likely, when used in connection with Applicant's goods, to cause confusion, to cause mistake, and to deceive the trade and public, who are likely to believe that Applicant's goods have their origin with Opposer and/or that such goods are approved, endorsed or sponsored by Opposer or associated in some way with Opposer. Opposer would thereby be injured by the granting to Applicant of a certificate of registration for Applicant's Mark.

WHEREFORE, Opposer believes that it will be damaged by registration of Applicant's Mark and requests that the opposition be sustained and said registration be denied.

Please recognize as attorneys for Opposer in this proceeding Mary L. Kevlin, Richard S. Mandel and Seth Shaifer (members of the bar of the State of New York) and the firm Cowan, Liebowitz & Latman, P.C., 1133 Avenue of the Americas, New York, New York 10036.

Please address all communications to Mary L. Kevlin, Esq. at the address listed below.

Dated: New York, New York  
September 14, 2012

Respectfully submitted,

COWAN LIEBOWITZ & LATMAN, P.C.  
Attorneys for Opposer

By: /Seth Shaifer/

Mary L. Kevlin  
Richard S. Mandel  
Seth Shaifer  
1133 Avenue of the Americas  
New York, New York 10036  
(212)790-9200

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on September 14, 2012, I caused a true and correct copy of the foregoing Notice of Opposition to be served via First Class Mail, postage prepaid, on Applicant Shannon Elizabeth Fadal, 7336 Santa Monica Blvd., PMB 690, Los Angeles, California 90046.

\_\_\_\_\_  
/Seth Shaifer/  
Seth Shaifer